

Commission Directive 2009/161/EU of 17 December 2009 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Commission Directive 2000/39/EC

THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union and to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work [1], and in particular Article 3(2) thereof,

Having regard to the opinion of the Advisory Committee on Safety and Health at Work,

Whereas:

(1) Pursuant to Directive 98/24/EC, the Commission is to propose European objectives in the form of indicative occupational exposure limit values (IOELVs) for the protection of workers from chemical risks, to be set at Community level.

(2) In carrying out this task, the Commission is assisted by the Scientific Committee for Occupational Exposure Limits to Chemical Agents (SCOEL) set up by Commission Decision 95/320/EC [2].

(3) IOELVs are health-based, non-binding values, derived from the most recent scientific data available and taking into account the availability of measurement techniques. They set threshold levels of exposure below which, in general, no detrimental effects are expected for any given substance after short-term or daily exposure over a working life time. They constitute European objectives to assist employers in determining and assessing risks, in accordance with Article 4 of Directive 98/24/EC.

(4) For any chemical agent for which an IOELV is established at Community level, Member States are required to establish a national occupational exposure limit value taking into account the Community limit value, but may determine its nature in accordance with national legislation and practice.

(5) IOELVs should be regarded as an important part of the overall approach to ensuring that the health of workers is protected against the risks arising from hazardous chemicals.

(6) Results of the risk assessments and risk reduction strategies developed in the framework of Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances [3] show the need for the establishment or revision of occupational exposure limit for a number of substances.

(7) Commission Directive 91/322/EEC [4] as amended by Directive 2006/15/EC [5] contains occupational exposure limits for 10 substances and remains in force.

(8) A first and a second list of IOELVs were established by Commission Directives 2000/39/EC [6] and 2006/15/EC under Directive 98/24/EC. This Directive establishes a third list of IOELVs under Directive 98/24/EC.

(9) In accordance with Article 3 of Directive 98/24/EC, SCOEL has assessed 19 substances, which are listed in the Annex to this Directive. One of these substances, phenol, was previously listed in the Annex to Directive 2000/39/EC. SCOEL has reviewed the IOELV for this substance in the light of recent scientific data and recommended the establishment of a short-term exposure limit (STEL) to complement the existing time-weighted average (TWA) IOELV. Therefore, this substance, now listed in the Annex to this Directive, should be deleted from the Annex to Directive 2000/39/EC.

(10) Mercury is a substance with potentially serious cumulative health effects. Therefore health surveillance including biological monitoring in accordance with Article 10 of Directive 98/24/EC should complement the IOELV.

(11) It is also necessary to establish short-term exposure limit values for certain substances to take account of effects arising from short-term exposure.

(12) For some substances, it is necessary to take into account the possibility of penetration through the skin in order to ensure the best possible level of protection.

(13) This Directive should constitute a practical step towards consolidating the social dimension of the internal market.

(14) The measures provided for in this Directive are in accordance with the opinion of the Committee established by Article 17 of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work [7],

HAS ADOPTED THIS DIRECTIVE:

Article 1

In implementation of Directive 98/24/EC, a third list of Community indicative occupational exposure limit values is hereby established for the chemical agents listed in the Annex.

Article 2

Member States shall establish national occupational exposure limit values for the chemical agents listed in the Annex, taking into account the Community values.

Article 3

In the Annex to Directive 2000/39/EC the reference to phenol is deleted.

Article 4

1. Member States shall bring into force the necessary laws, regulations and administrative provisions to comply with this Directive by 18 December 2011 at the latest.

They shall forthwith communicate to the Commission the text of those provisions and a correlation table between the provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.

Article 5

This Directive shall enter into force on the 20th day following its publication in the Official Journal of the European Union.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 17 December 2009.